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time" to build roads and mills and to cut, manufacture, and remove trees, and providing that grantee shall have 10 years in which to cut and remove the trees, and that grantor shall have the right to deaden the trees standing on expiration of such 10-year period and clear the land for cultivation, held to convey fee in standing timber with indefinite time for removal even after expiration of 10-year period.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 420.]

7. Logs and Logging (§ 3 (5)*)—Evidence Held Not to Prove Abandonment.—In an action to enjoin removal of standing timber, evidence held not to prove abandonment of the right to the timber under timber deed.

Appeal from Circuit Court, Dickenson County.

Suit by William J. Branham and another against Wilson Bros. and another. Decree for complainants, and defendants appeal. Reversed.

A. A. Skeen, of Clintwood, *Phipps & Phipps*, of Clintwood, *O. M. Vicars*, of Wise, *J. W. Flannagan, Jr.*, of Grundy, and *Geo. C. Peery*, of Tazewell, for appellants.

Sale & Harris, of Richmond, and *Chase & McCoy*, of Clintwood, for appellees.

WILSON BROS. et al. v. W. M. RITTER LUMBER CO.

Sept. 28, 1921.

[109 S. E. 201.]

Appeal from Circuit Court, Dickenson County.

Suit by the W. M. Ritter Lumber Company against Wilson Bros. and others. Decree for complainants, and defendants appeal. Reversed.

A. A. Skeen and Phipps & Phipps, all of Clintwood, *O. M. Vicars*, of Wise, *J. W. Flannagan, Jr.*, of Grundy, and *Geo. C. Perry*, of Tazewell, for appellants.

Sale & Harris, of Richmond, and *Chase & McCoy*, of Clintwood, for appellees.

PENDLETON v. COMMONWEALTH.

Sept. 22, 1921.

[109 S. E. 201.]

1. Homicide (§§ 233, 245*)—Evidence Held Insufficient to Establish Motive Claimed or to Show Shooting Necessary to Accomplish Same.—In prosecution for murder, evidence held insufficient to show

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.